

INI-0031-D

**REMARKS**

Claims 1 – 24 are pending in the present Application. Claims 22 – 24 have been amended, and Claims 1 – 21 have been allowed, leaving Claims 22 – 24 for consideration upon entry of the present Amendment. Claim 22 was amended to further claim the present invention. Support for the amendment to Claim 22 can at least be found in Claim 21 as well as in Paragraph [0053]. Claims 23 and 24 were amended to place them in independent form. The Specification has been amended to insert the number from Claim 6 relating to the non-skid surface. Figure 6 has been amended to illustrate the non-skid surface. No new matter has been introduced by these amendments. Reconsideration and allowance of the claims is respectfully requested in view of the above amendments and the following remarks.

Drawing Objections Under 37 C.F.R. §1.83(a)

The drawings were objected to under 37 C.F.R. §1.83(a) as allegedly failing to show every feature of the invention specified in the claims. Figure 6 has been amended to illustrate the non-skid surface 17 and to include the reference number 17. Support for this amendment can at least be found in Paragraph [0052]. An "Annotated Marked-Up Drawing" is submitted herewith in accordance with 37 C.F.R. 1.121 and MPEP 608.02(p). Reconsideration and withdrawal of this objection are respectfully requested.

Claim Rejections Under 35 U.S.C. § 102(b)

Claim 22 stands rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No.4,846,077 to Win. Applicants respectfully traverse this rejection.

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Variant Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

Claim 22 has been amended to include the element: wherein a side of the pallet comprising the puncture-resistant film is bowed out of the plane thereof in a direction opposite to a deflection of the pallet under load. Win fails to mention deflection of the pallet. For at least this reason, Win fails to anticipate Claim 22 of the present application. Reconsideration and withdrawal of this rejection are respectfully requested.

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Claim Rejections Under 35 U.S.C. § 103(a)

Claims 23 and 24 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Win. Applicants respectfully traverse this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

The Examiner contends that:

The patent to Win teaches structure substantially as claimed... including a non resistant film. The provision of decorative designs or lettering on a covering is well known and commercially used. It is noted that the film of Win and any lettering or decoration would provide a frictional resistance, thereby providing structure as claimed.

(Office Action, Page 4) Applicants respectfully disagree.

The present claims include puncture-resistant film with a non-skid film attached thereto or a non-skid surface embossed thereon. Applicants respectfully disagree that lettering or decoration (e.g., coloring in the film) for decoration or identification is a "non-skid surface" or that there is any teaching, suggestion, or motivation to change the film of Win to have a non-skid surface or film. The film of Win is intended to be a plastic stretch wrap film wrapped with tension about a pallet frame. (Abstract) This film is replacable. (Col. 2, lines 48 – 50) There is no teaching, suggestion, or motivation in the prior art to modify Win as suggested in the Office Action. There is further no teaching, suggestion, or motivation to modify the film with a "decorative design or lettering" that such design or lettering will "provide a frictional resistance" as alleged in the Office Action. The determination of obviousness is not based upon what one of skill in the art could do, but what one of skill in the art would do and would be motivated to do based upon the teachings of the prior art.

Since there is no teaching, suggestion, or motivation to modify Win to attain the present claims, a *prima facie* case of obviousness has not been established. Reconsideration and withdrawal of this rejection are respectfully requested.


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It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection and rejections and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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